

Senate File 2101 - Introduced

SENATE FILE 2101
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2002)

A BILL FOR

1 An Act relating to purple marks or caps on top of trees or
2 posts to indicate that unlawful entry constitutes criminal
3 trespass and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 716.7, subsection 2, paragraph a,
2 subparagraph (2), Code 2018, is amended by adding the following
3 new subparagraph division:

4 NEW SUBPARAGRAPH DIVISION. (c) (i) Identifying purple
5 marks or caps have been placed on trees or posts around the
6 area where entry is forbidden. Each purple mark must be either
7 of the following:

8 (A) A vertical line on a tree of at least eight inches in
9 length and the bottom of the mark must be no less than three
10 feet and no more than five feet above the ground. Such marks
11 must be placed no more than one hundred feet apart and must be
12 readily visible to any person approaching the property.

13 (B) A fence post capped or otherwise marked on at least the
14 post's top two inches. The bottom of the cap or mark must be
15 no less than three feet and no more than five feet, six inches
16 above the ground. Posts so capped or marked must be placed no
17 more than thirty-six feet apart and must be readily visible
18 to any person approaching the property. Prior to applying
19 a cap or mark which is visible from and could reasonably be
20 construed to apply to property on both sides of a fence shared
21 by different property owners, lessees, or others in lawful
22 possession, all such owners, lessees, or others in lawful
23 possession shall concur in the decision to apply a cap or mark
24 to the fence.

25 (ii) (A) This subparagraph division (c) shall not be
26 construed to authorize an owner, lessee, or other person in
27 lawful possession of any property to place any purple marks or
28 caps on any tree or post or to install any post or fence if
29 doing so would violate any applicable law, rule, ordinance,
30 order, covenant, bylaw, declaration, regulation, restriction,
31 or instrument.

32 (B) This subparagraph division (c) does not apply to real
33 property located in a city.

34 (C) This subparagraph division (c) does not apply to the
35 persons described in section 716.7, subsection 3, paragraphs

1 "a" through "e".

2 (D) Prior to July 1, 2019, notice provided by the method
3 described in this subparagraph division (c) is not valid or
4 enforceable. This subparagraph part is repealed July 1, 2023.

5 Sec. 2. DISSEMINATION OF INFORMATION REGARDING MARKING
6 PROCEDURES. The departments of agriculture and land
7 stewardship and natural resources shall conduct an information
8 campaign for the public concerning the implementation and
9 interpretation of section 716.7, subsection 2, paragraph
10 "a", subparagraph (2), subparagraph division (c). The
11 information provided shall inform the public about the
12 marking requirements, including information regarding the
13 size requirements of the markings as well as the manner
14 in which the markings must be placed. The departments of
15 agriculture and land stewardship and natural resources shall
16 also include information in the campaign that, prior to
17 July 1, 2019, any owner, lessee, or other person in lawful
18 possession who chooses to place purple markings or caps on
19 such person's property, must comply with one of the other
20 notice requirements listed in section 716.7, subsection 2,
21 paragraph "a", subparagraph (2), to meet the definition of
22 trespass. The departments of agriculture and land stewardship
23 and natural resources may prepare a brochure, disseminate the
24 information through agency internet sites, or collaborate with
25 nongovernmental organizations to assist in the dissemination
26 of the information.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to notice that entry in or on property is
31 trespassing.

32 Under current law, criminal trespass includes entering or
33 remaining upon or in property without justification after being
34 notified or requested to abstain from entering or to vacate
35 the property. Current notification methods include personal

1 notice, orally or in writing, and posting a printed or written
2 notice.

3 The bill establishes a new method for property owners,
4 lessees, and other lawful possessors to provide notice
5 that entry onto the property without permission constitutes
6 criminal trespass. Specifically, proposed new Code section
7 716.7(2)(a)(2)(c) indicates that purple marks or caps on trees
8 or posts around an area serves as notice that entry without
9 permission into that area constitutes criminal trespass. This
10 new method of notification of trespass is an independent
11 alternative to preexisting, codified methods of notification
12 in Code section 716.7(2)(a)(2).

13 The bill does not apply to certain employees entering onto
14 property to perform certain work. The persons defined in Code
15 section 716.7(3)(a)-(e) do not commit trespass when they enter
16 upon such property to perform defined work.

17 The bill specifies the size requirements of the marks and
18 caps and when they may be used. Marks and caps shall not be
19 used and posts shall not be installed if doing so would violate
20 any law or lawful agreement. Additionally, this method shall
21 not be used in a city.

22 The marks on trees must consist of at least an eight-inch
23 vertical line that is above the ground at between three feet
24 and five feet. Additionally, the marks must be no more than
25 100 feet apart and they must be readily visible to a person
26 approaching the property.

27 Purple caps on fence posts must meet the following
28 requirements. The fence posts must be no more than 36 feet
29 apart and readily visible to a person approaching the property.
30 The cap or mark must be on the top two inches of the post. The
31 bottom of the cap must be between three feet and five feet,
32 six inches above the ground. Before putting a cap or mark on
33 a post that is visible from both sides and could reasonably
34 be construed to apply to property where another side is on
35 property that is owned, leased, or lawfully possessed by

1 someone else, the property owner must obtain agreement by that
2 other person.

3 The new method of providing notification applies on July
4 1, 2019. Prior to that date, property owners must use the
5 methods currently provided for in the Code to place potential
6 trespassers on notice.

7 Prior to the applicability date of the purple marking notice
8 method, the departments of agriculture and land stewardship
9 and natural resources shall conduct an information campaign on
10 the method, how it is defined in the Code, and how it is to
11 be interpreted and implemented. The departments may prepare
12 a brochure, place information on agency internet sites, or
13 collaborate with nongovernmental organizations to disseminate
14 the information.

15 The different levels of penalties provided for trespass
16 that are set forth in Code sections 716.8, 481A.134, and
17 481A.135 are applicable to a trespass committed pursuant to the
18 provisions of the bill.